



University of North Texas
Texas College of Osteopathic Medicine

Office of the Chancellor



April 12, 1991

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Opinion Committee

The Honorable Dan Morales
Texas Attorney General
P.O. Box 12458
Supreme Court Building
Austin, TX 78711-2458

Re: Attorney General Opinion Request
University of North Texas

Dear General Morales:

The University of North Texas (UNT) requests an Attorney General Opinion regarding the interpretation of Article 8309g of the Texas Revised Civil Statutes. This statute details workers' compensation insurance for state employees. Specifically, clarification is requested in regard to Section 1, subsection 2(C) of this article, which states:

Section (2) The word "employee" shall not include: . . .
(C) Persons who are at the time of injury performing services for the federal government and who are covered by some form of federal workers' compensation, including those working under Comprehensive Employment and Training Act of 1973 programs; prisoners or inmates of a prison or correctional institution; clients or patients of any state institution or agency. (emphasis added)

UNT employs handicapped individuals as part of its training program in the University's Vocational Rehabilitation Center. These employees perform various job tasks depending upon their capabilities and are paid sub-minimum or minimum wages. The purpose of the Vocational Rehabilitation Center is to train handicapped individuals for future employability. The individuals trained and employed in the Vocational Rehabilitation Center are self-referred, referred by private entities, and also referred by the Denton State School or other state institutions and agencies.

While some individuals employed by the Center are clearly covered by workers' compensation as state employees, the University is concerned about workers' compensation coverage for those Vocational Rehabilitation Center employees who are referred by the Denton State School or other state institutions and agencies. These individuals are technically "clients or patients of a state

institution or agency," but are also performing job duties and are employed by the University which is an entity of the state. (See Article 8309g, Section 1, subsection 2(C), Texas Revised Civil Statutes).

The University believes that this limited number of individuals should be covered as state employees under the referenced workers' compensation statute. Inquiries have been made with various experts in this matter, including the Workers' Compensation Division of the State Board of Insurance. While no one knew the answer to this dilemma, these experts did indicate that, in their opinion, the exception under the definition of state employees for "clients or patients of any state institution or agency" was not intended to exclude the University's Vocational Rehabilitation Center employees. It appears inequitable that most of the Center's employees are covered under this statute, and yet a small number of them would not be covered just because they happen to also be clients or patients of a state institution or agency. Everyone who works in the Vocational Rehabilitation Center is paid according to Department of Labor Regulations and should be afforded state employee workers' compensation benefits.

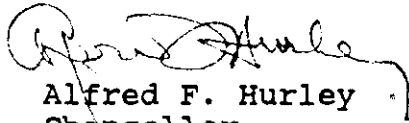
The exclusion in the statute for "clients or patients of a state institution or agency" was likely intended to exclude persons who work in state institutions (such as state schools) and yet are otherwise covered or protected as wards of the state. Indeed, subsection 2(C) excludes other categories of employees who are otherwise covered, including federal workers and prisoners or inmates. Federal workers would be otherwise covered by some form of federal workers' compensation and prisoners or inmates would be protected as wards of the State. Although the Vocational Rehabilitation Center's employees who are clients or patients of state institutions or agencies are wards of the State while at the respective institutions, they are treated as payroll employees while they work in the Vocational Rehabilitation Center at UNT.

The purchase of separate coverage for workers' compensation of these few University employees costs the Vocational Rehabilitation Center approximately six thousand dollars (\$6,000.00) per year and continues to rise dramatically. The University requests an opinion from the Attorney General as to whether outside coverage should be purchased. There is little guidance regarding this issue and the University believes that the statutory language could not have intended to exclude this small class of University employees who are caught in this dilemma.

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Please contact the office of the Vice President and General Counsel should further information be necessary.

Sincerely,



Alfred F. Hurley
Chancellor

cc: Mr. Jerry Farrington
Chair, UNT/TCOM Board of Regents